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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LEE, ANDREW CHUNG CHEUNG

ART UNIT

PAPER NUMBER

2619

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 09/751,848	<b>Applicant(s)</b> PARK ET AL.	
	<b>Examiner</b> Andrew C. Lee	<b>Art Unit</b> 2619	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 09 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Edan Orgad/  
 Supervisory Patent Examiner, Art Unit 2619

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's remarks/arguments files on 3/11/2008 with respect to claim 1 have been fully considered but they are not persuasive. Regarding claim 1, applicant argues reference Ludwig et al. (US 6697352 B1) do not teach or suggest the claimed feature "only the header information in the bit stream is separately transmitted in an acknowledge mode. Examiner respectfully disagrees. Examiner contends reference Ludwig et al. teach the header information in the bit stream is transmitted in an acknowledge mode, see col. 6, lines 19 - 27, Fig. 5, Fig. 9. what Ludwig et al. do not teach is "the header information in the bit stream separately transmitted". According to Examiner's last Office Action, reference Sutoh (US 6678770 B1) teaches the header in the bit stream is separately transmitted, see Sutoh, col. 13, lines 50 - 60, lines 15 - 21. Examiner interpreted "can transmit the protocol header and data as separate blocks" in reference Sutoh as the header information in the bit stream is transmitted. Applicant further argues "the cited portion of Sutoh stating that the protocol header and data can be transmitted as separate blocks" is not the same thing as the claimed features "only the header information in the bit stream is separately transmitted in an acknowledged mode protocol. Based on the claimed language, they are surely various, but both have the main function of transmit the header separately from payload or data. Applicant also argues and refers to col. lines 10 - 32 that reference Ludwig et al. simply describes passing user data through different protocol layers using encapsulation. Examiner respectfully agrees applicant's remark. This cited information (col. lines 10 - 32, refer to Fig. 5) correlates to Applicant's Fig. 5, and the information disclosed in applicant's specification, pages 11 - 13. Applicant argues Zhu fails to cure the deficiencies of Ludwig and Sutoh, since Zhu is completely silent as to both acknowledged and unacknowledged mode protocols. Examiner respectfully disagrees. Ludwig et al. suggest both acknowledged and unacknowledged mode protocols, see Ludwig et al., col 6, lines 19 - 27, Fig. 5, while Sutoh is to cure the deficiencies of Ludwig for header information in bit stream is separately transmit, see Sutoh, col. 13, lines 50 - 60, and Zhu is to cure the deficiencies of Ludwig for coding source data into bit stream using a predetermined type of coding, see Zhu col. 3, lines 26 - 27.

Applicant then argues "Therefore, if one of ordinary skill in the art were to modify Ludwig to obtain the claimed invention, not only would a substantial reconfiguration be required, but the system of Ludwig would be unsuited for its intended purpose,(i.e., to embed packets based on the type of data, so that adjustable parameters can be set automatically at the layer providing the parameters being adjusted in accordance with the packets being embedded), since the discriminator device would not function correctly if only the header information in the bit stream is separately transmitted in an acknowledged mode protocol. Examiner respectfully disagrees.

Applicant merely states that the discriminator device would not function correctly if only the header information in the bit stream is separately transmitted in an acknowledged mode protocol, but without providing any solid reason of why it is not function properly.

The encapsulation/decapsulation of header in protocol stack is inherent and known to the art.

However, the claimed feature "if only the header information in the bit stream is separately transmitted in an acknowledge mode" has indefinite issue. It is not sure that if only the header information in the bit stream is separately transmitted in an acknowledge mode to a network or to other protocol layer of the the protocol stacks. According to current claimed language in claim 1, step (b), a header is added to each protocol layer till it reaches the lower layer - layer 1, however, it is ambiguous in step (c) transmitting the header separately from bit stream transmitted in the operation (b). The term "transmitting" is not clear here in the claim, does it means after the header is added in that layer, the header is then transmitting out to a network, or it is then transmitting to lower layer. Clarification is required.

Regarding claim 29, applicant argues even assuming, arguendo, Ludwig discloses implicitly the reference Ludwig [sic] of transmitting the bit stream in an unacknowledged mode protocol, and transmitting the header information in an unacknowledged or acknowledged mode protocol, Applicant submits that the claim requires, inter alia, separately transmitting only header information in an unacknowledged or acknowledged mode protocol. Examiner respectfully disagrees. Examiner contends Ludwig teaches transmitting the bit stream in an unacknowledged mode protocol, see Ludwig, col. 6, lines 19 - 27, col. 14, lines 62 - 65, and transmitting the header information in an unacknowledged or acknowledged mode protocol, col. 6, lines 19 - 27, col. 14, lines 66 - 67, col. 15, lines 1 - 24. However, the claimed features in claim 29 "separately transmitting only header information in an unacknowledged or acknowledged mode protocol" is contradict with claim 1 that disclosed only the header information in the bit stream is separately transmitted in an acknowledged mode. Clarification is required.